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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DASTOURI, MEHRDAD

ART UNIT PAPER NUMBER

2623

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,495

Applicant(s)

RUBINSTENN ET AL.

Examiner

Mehrdad Dastouri

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/24/03; 12/22/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities:

Attorney Docket Numbers referred to in the specification should be substituted by the corresponding application or issued patent numbers as applicable.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-12, 14-23, 26-28 and 31-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Hillebrand et al., (Hereinafter, Hillebrand), (U.S. 6,571,003).

Regarding Claim 1, Hillebrand discloses a method of performing a skin analysis, the method comprising:

receiving at least one image of at least one portion of a subject's facial skin (Figure 3, Step 302; Column 4, Lines 39-53));

identifying in the at least one image at least one skin condition (Figure 5, Wrinkles; Column 6, Lines 1-8);

extracting from the at least one image at least one representation of the at least

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one skin condition (Figures 3, 5, 7 and 8; Column 7, Lines 58-67, Column 8, Lines 1-18); and

storing information reflective of the at least one representation (Figure 2, Data Memory 202; Column 4, lines 8-22; Column 10, Lines 43-55).

Regarding Claim 2, Hillebrand discloses the method of Claim 1, wherein the stored information includes an image of the at least one skin condition (Column 7, Lines 65-67, Column 8, Lines 1-17).

Regarding Claim 3, Hillebrand discloses the method of Claim 1, wherein the stored information includes a quantification of the at least one representation (Column 7, Lines 65-67, Column 8, Lines 1-17).

Regarding Claim 4, Hillebrand discloses the method of Claim 3, wherein the quantification indicates at least one of an extent, intensity, frequency, type, and severity of the at least one skin condition (Column 7, Lines 65-67, Column 8, Lines 1-17. Large and small red spots.).

Regarding Claim 5, Hillebrand discloses the method of Claim 1, wherein the at least one skin condition includes at least one wrinkle (Figure 5, Wrinkles; Column 6, Lines 1-8).

Regarding Claim 6, Hillebrand discloses the method of Claim 5, wherein during identifying, the at least one image is processed to identify substantially all visible wrinkles in at least one part of the at least one image, and wherein the at least one extracted representation includes a skin condition image devoid of substantially all facial

features other than the visible wrinkles (Figures 7 and 11-14, Sub-image border 704; Column .

Regarding Claim 7, Hillebrand discloses the method of Claim 6, wherein the visible wrinkles are represented in the extracted representation by marks mirroring contours and locations of the visible wrinkles (Column 8, Lines 33-46).

Regarding Claim 8, Hillebrand discloses the method of Claim 7, wherein wrinkle depth is reflected in the extracted representation by at least one of mark intensity, color, and visual cue (Column 8, Lines 33-46).

Regarding Claim 9, Hillebrand discloses the method of Claim 1, wherein during identifying, the at least one image is processed to identify substantially all visible occurrences of the at least one skin condition in at least one part of the at least one image, and wherein the extracted representation includes a skin condition image devoid of substantially all facial features other than the at least one skin condition (Figures 11-14, Section 704).

Regarding Claim 10, Hillebrand discloses the method of Claim 1, wherein during receiving, the at least one image is obtained in digital form (Figure 1, Digital Image Generator 120).

Regarding Claim 11, Hillebrand discloses the method of Claim 1, wherein during identifying, a computer processor is used to perform an image processing function (Figure 2, Computing Device 106).

Regarding Claim 12, Hillebrand discloses the method of Claim 1, wherein the at least one skin condition includes at least one of skin pore size, texture, elasticity,

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dryness, cellulitis, sweating, aging, wrinkles, melanoma, exfoliation, desquamation, homogeneity of color, micro-circulation, shininess, softness, smoothness, hydration, sebum production, cleanliness, irritation, redness, vasomotion, vasodilation, vasoconstriction, pigmentation and freckles (Column 8, Lines 3-18).

Regarding Claim 14, Hillebrand discloses the method of Claim 1, further comprising instructing the subject on how to record the at least one image (Figure 4, image Acquisition; Column 4, lines 55-67, Column 5, Lines 1-14).

Regarding Claim 15, Hillebrand discloses the method of Claim 14, wherein instructing includes advising the subject on how to capture the at least one image with an image capture device (Figure 4, image Acquisition; Column 4, lines 55-67, Column 5, Lines 1-14).

Regarding Claim 16, Hillebrand discloses the method of Claim 15, wherein the image capture device is a digital Camera (Abstract, Lines 4-5).

Regarding Claim 17, Hillebrand discloses the method of Claim 14, wherein instructing includes advising the subject on how to capture the at least one image using a scanner (Abstract, Lines 4-5; Figure 4, image Acquisition; Column 4, lines 55-67, Column 5, Lines 1-14).

Regarding Claim 18, Hillebrand discloses the method of Claim 1, further comprising associating personal information about the subject with the information reflective of the at least one representation (Column 5, Lines 43-59).

Regarding Claim 19, Hillebrand discloses the method of Claim 18, wherein the personal information includes at least one of physical characteristics, lifestyle

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information, family history information, vocational information, environmental information, genetic information, and information correlated to the at least one skin condition (Column 5, Lines 43-59).

Regarding Claim 20, Hillebrand discloses the method of Claim 19, performed on a plurality of subjects, the method further comprising maintaining a searchable database for correlating personal information of the plurality of subjects with skin conditions of the plurality of subjects (Column 5, Lines 43-59)..

Regarding Claim 21, Hillebrand discloses the method of Claim 3, wherein the quantification is tracked over time (Column 13, Lines 5-9).

Regarding Claim 22, Hillebrand discloses the method of Claim 1, wherein extracting occurs to an extent that the subject is anonymous when the representation is viewed (Figures 11-14, Section 704. By performing the analysis on Section 704, the subject will be anonymous.).

Regarding Claim 23, Hillebrand discloses the method of Claim 1, wherein during extracting at least one portion of the at least one image is magnified to facilitate identifying the at least one skin condition (Column 8, Lines 13-18. U.S. Patent 5,016,173 which is incorporated by reference in Hillebrand's patent discloses the image is magnified to facilitate identifying the at least one skin condition Column 6, Lines 1-6)).

Regarding Claim 26, Hillebrand discloses the method of Claim 1 conducted, at least in part, in a network environment, wherein receiving at least one image occurs via a network and in at least one location remote from a location of the subject (Column 10, Lines 43-57).

With regards to Claims 27 and 32, arguments analogous to those presented for Claim 1 are applicable to Claims 27 and 32.

With regards to Claim 28, arguments analogous to those presented for Claim 23 are applicable to Claim 28.

With regards to Claim 31, arguments analogous to those presented for Claim 26 are applicable to Claim 31.

With regards to Claim 33, arguments analogous to those presented for Claims 1, 22 and 26 are applicable to Claims 27 and 33.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 13, 24, 25, 29, 30 and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hillebrand (U.S. 6,571,003).

Regarding Claim 13, Hillebrand does not explicitly disclose the method of Claim 1, wherein storing includes saving the at least one representation at an address separate from an address of the at least one image.

Storing different data information (i.e., a representation of one attribute of an image (e.g., skin condition) and the image information) at separate addresses is a well known methodology routinely implemented in image processing as an obvious procedure to a person of ordinary skill in the art (Official Notice).

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Regarding Claim 24, it is well known in the art to cover the received image is covered with powder to facilitate extracting the one of the image representation because it will reduce the effects of light variations to enable capturing an enhanced image (Official Notice).

Regarding Claim 25, it is well known in the art to illuminate the skin with a Woods lamp (Black-light blue) to facilitate extracting the at least one representation associated with the skin condition (Official Notice).

With regards to Claims 29 and 30, arguments analogous to those presented for Claims 24 and 25, respectively, are applicable to Claims 29 and 30.

Regarding Claims 34-37, Using the invention disclosed in Publication 1 with hair, nails, and the like is nothing more than a design-like feature that one skilled in the art could appropriately select when designing. (See, for example, Publication JP 05-26341, Paragraph 0113.)

Other prior art cited

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

IEEE Paper to Lievin et al, "Lip Features Automatic Extraction".

Contact Information

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mehrdad Dastouri whose telephone number is (703) 305-2438. The examiner can normally be reached on Monday to Friday from 8:00 a.m. to 4:30 p.m..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amelia Au can be reached on (703) 308-6604. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mehrdad Dastouri
Primary examiner
Group Art Unit 2623
March 16, 2005

MEHRDAD DASTOURI
PRIMARY EXAMINER

Mehrdad Dastouri